

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

2/8/22
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-----x	SANJAY TRIPATHY, Plaintiff, v. FUEZ, J. FEID, LUIS GONZALEZ, JOHN WOOD, EDWARD BURNETT, JEFF MCKOY, TINA M. STANFORD, MICHELE HARRINGTON, ANDREW M. CUOMO, RYAN BROTZ, and BRIAN MCALLISTER, Defendants. -----x	SECOND AMENDED ORDER OF SERVICE 21 CV 5349 (VB)
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Plaintiff, proceeding pro se and currently incarcerated at Collins Correctional Facility, brings claims for violations of his federal statutory and constitutional rights.

On June 17, 2021, plaintiff filed a complaint in this action against certain defendants at Fishkill Correctional Facility, where plaintiff was previously incarcerated, as well as other defendants from the Department of Corrections and Community Supervision and the State of New York. (Doc. #1). By Order dated November 16, 2021, defendants were to answer, move, or otherwise respond to the complaint by February 1, 2022. (Doc. #33).

In a letter dated January 4, 2022, plaintiff filed a motion for preliminary injunction under Fed. R. Civ. P. 65 and a motion for supplemental pleading under Fed. R. Civ. P. 15(d), based on new allegations regarding additional statutory and constitutional violations purportedly suffered at Collins Correctional Facility, the facility where plaintiff is currently incarcerated. (Doc. #36).

By Order dated January 12, 2022, the Court denied plaintiff's motion for preliminary injunction, but granted plaintiff leave to supplement the complaint for the limited purpose of including the additional allegations contained in the motion and naming the additional defendants referenced in the motion. (Doc. #37). The Court also stayed all defendants' time to answer, move, or otherwise respond to the complaint pending the filing of plaintiff's

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supplemental pleading, at which point defendants were ordered to answer, move, or otherwise respond to the complaint (including the supplemental pleading) within 21 days. (Id.)

On February 7, 2022, the Court received a letter from plaintiff dated January 26, 2022, and styled as a “Supplemental Pleading under FRCP 15(d).” (Doc. #40). The letter includes the supplemental pleading and names two additional defendants: Ryan Brotz and Brian Mcallister. The letter also requests, among other things, (i) an “accelerated hearing/response schedule . . . so [d]efendants can respond to the original complaint and the supplemental pleadings, due to the nature of the harm [imminent, ongoing, irreparable and irreversible]”; (ii) an order directing the clerks of certain New York state courts “to provide certified copies of [certain] documents [listed in the letter]”; and (iii) “evidentiary hearings during which the [aforementioned] documents can be looked at.” (Id. at 14–15).

Accordingly, IT IS HEREBY ORDERED:

1. Plaintiff’s request for an “accelerated hearing/response schedule” is **DENIED** for substantially the reasons stated in the Court’s January 12, 2022, Order, denying plaintiff’s motion for preliminary injunction.
2. Plaintiff’s requests regarding production and inspection of documents purportedly in the possession of the clerks of the New York state courts are also **DENIED**, as the Court lacks the authority to grant the relief requested.
3. By **March 8, 2022**, defendants shall answer, move, or otherwise respond to the complaint (including the supplemental pleading).
4. The Clerk of Court is directed to issue summonses as to defendants Ryan Brotz and Brian Mcallister. Plaintiff is directed to serve the summons and complaint (including the supplemental pleading) on each defendant within 90 days of the

issuance of the summons. If within those 90 days, plaintiff has not either served defendants Brotz and Mcallister or requested an extension of time to do so, the Court may dismiss the claims against defendants Brotz and Mcallister under Fed. R. Civ. P. 4 and 41 for failure to prosecute.

Plaintiff is reminded to notify the Court in writing if plaintiff's address changes, and the Court may dismiss the action if he fails to do so.

Chambers will mail a copy of this Order to plaintiff at the address on the docket.

Dated: February 8, 2022
White Plains, NY

SO ORDERED:



Vincent L. Briccetti
United States District Judge